

JM

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

MICHAEL L. KATHREIN,

Plaintiff,

v.

BRIGID M. McGRATH,
MICHAEL P. MONAR,
JEFFREY R. ROSENBERG,
DANIEL V. KINSELLA,
SCHUYLER, ROCHE & ZWIRNER, P.C.
PADDY H. McNAMARA,

Defendants.

Civil Action No. 04 C 7324

Judge David H. Coar

Magistrate Judge
Arlander Keys

FILED

JN OCT 18 2007
OCT 18 2007
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

MOTION FOR ENTRY OF A JUDGMENT ORDER

Now comes the plaintiff, Michael L. Kathrein, *pro se*, and moves this Court for execution of a memorandum of judgment against Schuyler, Roche & Zwirner, P.C., as attached hereto. In support of his Motion, plaintiff would have this Court know the following:

1. On 24 June 2005 defendants filed their Renewed Motion for Sanctions under F.R.Civ.P. Rule 11 in the amount of \$62,774.84 [44]
2. On 31 March 2006, this Court entered a Minute Order reducing defendants' Petition amount by \$5,916.69, finding the request "*inappropriate*" and that it included amounts "*not related to this case.*" The Court imposed sanctions against plaintiff in the amount of \$56,858.15. [66]
3. On 10 April 2006, plaintiff filed his Notice of appeal of that Order to the U.S.C.A. [68]
4. On 22 April 2006, and in compliance with this Court's 31 March 2006 Order, plaintiff tendered a check for \$56,858.15 to all defendants. (Exhibit 1, attached hereto.)
5. On 23 April 2006 plaintiff received a telephone call from Camille B. Conway, attorney

for the individual defendant Michael Monar, indicating that the Check tendered the previous day was "*not acceptable*." Conway demanded a replacement check be tendered payable to the law firm of Schuyler, Roche & Zwirner (SRZ) only, and demanding with particularity, that the "payee" **not** include his client and co-defendant Michael Monar, who was the sole movant at [44].

6. On 25 April 2006, plaintiff tendered a replacement check to SRZ in the same amount, (\$56,858.15) made payable to SRZ only, as demanded by Conway. (Exhibit 2, attached hereto.)

7. On 27 April 2006, Conway acknowledge receipt of the replacement check and returned plaintiff's original check via U.S. Mail. (Exhibit 3, attached hereto.)

8. On 6 March 2007, nearly one year later, the United States Court of Appeals for the Seventh Circuit (U.S.C.A.) affirmed the district court's decision to impose sanctions but vacated the award, finding the fees claimed by SRZ to be "*inappropriate*" and "*beyond any amount that we have said is reasonable*." Defendants' fee petition was remanded to the district court for reconsideration. [86]

9. On 4 April, 2007, this court referred the matter to Magistrate Judge Arlander Keys for his review, Report and Recommendation.

10. On 14 May 2007, defendants filed a new fee petition for \$40,643.78, reducing defendants' amount claimed by \$22,131.06. [110]

11. On 3 October 2007 Magistrate Judge Keys determined that the new amount defendants requested [110] was "*not acceptable*" and "*still too high*" and persisted in "*reflecting work that could not possibly have been related to this lawsuit*." Accordingly, Judge Keys reduced the final amount to \$15, 500.74, [119] or less than one-quarter of the original request. [44].


12. The difference between the amount paid to SRZ on 25 April 2006 (\$56,858.15, Exhibit 1)

and the amount presently imposed (\$15,500.74) is \$41,357.41.

13. Therefore, defendant SRZ has in its possession, funds immediately due and owing to plaintiff Michael L. Kathrein in the amount of \$41,357.41.

WHEREFORE, plaintiff Michael L. Kathrein, moves this Court for execution of a memorandum of judgment against defendant Schuyler, Roche & Zwirner, P.C. in the amount of \$41,357.41, and for any other relief, just, due and owing in the premises.

Respectfully submitted,



Michael L. Kathrein
Plaintiff, *pro se*

Michael L. Kathrein
7601 North Eastlake Terrace
Chicago, Illinois 60626-1421
773-761-6000
773-465-7755 fax

CITIBANK®

500 W. MADISON STREET
CHICAGO, IL 60606

10861

2-7080/2710

PAY BRUGIO M. McGRATH MICHAEL P. MONAR
JEFFREY R. ROSENBERG DANIEL V. KINSILLA
SCHUYLER, ROGIE & ZWERNER PADDY H. McNAMARA

04/22/06

\$56,858.15

DATE

AMOUNT

Fifty Six Thousand, Eight Hundred Fifty Eight Dollars & 15/100

Mt. R

04-C-7324

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56,858.15

4-22-06

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{ Mc Grath
Rosenberg
Kinsella
SRZ
McNamara

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10861

COPY

EXHIBIT

1

2

SCHUYLER, ROCHE & ZWIRNER
A Professional Corporation

One Prudential Plaza
Suite 1800
120 East Randolph Street
Chicago, Illinois 60601

TEL 312 565.2400
FAX 312 565.8300
WEB WWW.SRZLAW.COM

CHICAGO | EVANSTON

CAMILLE B. CONWAY
Attorney at Law
TEL 312 565.1042
FAX 312 565.8300
cconway@srzlaw.com

April 27, 2006

Via U.S. Mail

Michael Lee Kathrein
7601 North East Lake Terrace
Chicago, IL 60626-1421

Re: Kathrein v. McGrath, et. al, 04 C 7324

Dear Mr. Kathrein:

Since I have received the replacement check made out to my firm, I am returning the original check I received from you.

Sincerely,

Camille B. Conway
Camille B. Conway

CBC/bya

ORIGINAL DOCUMENT PRINTED ON CHEMICAL REACTIVE PAPER WITH MICROPRINTED BORDER

CITIBANK

500 W. MADISON STREET
CHICAGO, IL 60606

10861

27080/2710

PAY TO THE ORDER OF
BRAND M. McGRATH, MICHAEL P. MONAGHAN,
JEFFREY R. ROSENBERG, DANIEL V. KUSSELLA,
SCHUYLER, ROCHE & ZWIRNER, PADDY H. McNAMARA

04/22/06

\$56,858.15

DATE

AMOUNT

FIFTY SIX THOUSAND, EIGHT HUNDRED FIFTY EIGHT DOLLARS & 15/100

04-C-7324

M. Conway

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FOR THE NORTHERN DISTRICT OF ILLINOIS

MICHAEL L. KATHREIN,

Plaintiff,

v.

BRIGID M. McGRATH,
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SCHUYLER, ROCHE & ZWIRNER, P.C.
PADDY H. McNAMARA,

Defendants.

Civil Action No. 04 C 7324

Judge David H. Coar

Magistrate Judge
Arlander Keys

MEMORANDUM OF JUDGMENT

On October _____, 2007, judgment was entered in favor of plaintiff Michael L. Kathrein and against Defendant Schuyler, Roche & Zwirner, P.C., whose address is 130 East Randolph Street, Suite 3800, Chicago, IL 60601 in the amount of \$41,357.41. (Forty-one thousand, three hundred and fifty-seven dollars and forty-one cents)

Judge _____

Michael L. Kathrein
7601 North Eastlake Terrace
Chicago, Illinois 60626-1421
773-761-6000
773-465-7755 fax

CERTIFICATE OF SERVICE

This is to certify that on this 18th day of October, 2007, I placed a true and exact copy of the

**NOTICE OF MOTION
and
MOTION FOR ENTRY OF A JUDGMENT ORDER**

in the U.S. Mail, first class postage prepaid, addressed to:

Daniel V. Kinsella
Schuyler, Roche & Zwirner, P.C.
Attorneys for himself and co-defendants
Jeffrey R. Rosenberg, Michael Monar,
Monar Consulting, Inc., and
Schuyler, Roche & Zwirner
130 East Randolph Street, Suite 3800
Chicago, IL 60601



Michael L. Kathrein